

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PC-21004814	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/IB2003/002776	International filing date (day/month/year) 11.07.2003	Priority date (day/month/year) 11.07.2002
International Patent Classification (IPC) or national classification and IPC C11B 3/14, C11B 3/00		
Applicant Pronova Biocare AS et al		

- This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 4 sheets, including this cover sheet.
- This report is also accompanied by ANNEXES, comprising:
 - ☐ (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:
 - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

- This report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

Date of submission of the demand 11.02.2004	Date of completion of this report 21.09.2004
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Form PCT/IPEA/409 (cover sheet) (January 2004)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/IB2003/002776

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

- ☐ international search (under Rules 12.3 and 23.1(b))
☐ publication of the international application (under Rule 12.4)
☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

☒ the international application as originally filed/furnished

☐ the description:

pages _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____

☐ the claims:

pages _____ as originally filed/furnished
 pages* _____ as amended (together with any statement) under Article 19
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____

☐ the drawings:

pages _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____

☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
☐ the claims, Nos. _____
☐ the drawings, sheets/figs _____
☐ the sequence listing (specify): _____
☐ any table(s) related to the sequence listing (specify): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
☐ the claims, Nos. _____
☐ the drawings, sheets/figs _____
☐ the sequence listing (specify): _____
☐ any table(s) related to the sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/IB2003/002776

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>1-14, 18, 20-21</u>	YES
	Claims	<u>15-17, 19, 22-24</u>	NO
Inventive step (IS)	Claims	<u>1-14, 18, 20-21</u>	YES
	Claims	<u>15-17, 19, 22-24</u>	NO
Industrial applicability (IA)	Claims	<u>1-24</u>	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

The claimed invention relates to a process for decreasing the amount of cholesterol in marine oil using a volative working fluid comprising a fatty acid ester or a fatty acid amide or a hydrocarbon.

Documents cited in the search report:

D1) US 5 436 018
 D2) US 4 804 555
 D3) US 4 996 072
 D4) US 5 091 117

It is known from the prior art to decrease the content of cholesterol in marine oil by using vacuum steam distillation at high temperatures.

The claimed process differs from the known processes in that a volative working fluid comprising fatty acid ester or fatty acid amide or hydrocarbon is being used.

The problem which is solved by the claimed method is that the cholesterol is more effectively stripped off and therefore almost all cholesterol is taken away. Thus the use of the volative working fluid gives a better utilization of the capacity of the process equipment and a more rapid stripping process. Another advantage with the claimed process is that it can be performed at a lower temperature.

For a person skilled in the art it was not obvious in view of the prior art to use a volative working fluid comprising a fatty acid ester or a fatty acid amide or a hydrocarbon in a process for decreasing the amount of cholesterol in marine oil.

.../...

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

Therefore claims 1-14, 18 and 20-21 are considered to fulfil the requirement of inventive step.

Claims 15-17 and 19 relate to the known products : a fatty acid ester, a fatty acid amide and a hydrocarbon. The fact that they are used as a volatile decreasing working fluid does not render the products novelty.

Claims 15-17 and 19 lack novelty.

The product produced by the claimed process (claims 22-24) does not differ from known oil products having a decreased content of cholesterol produced by other methods (see e.g. D1-D4).

Claims 22-24 lack novelty.